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CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR

RE: AMENDMENTS TO RULES  
REGULATING THE FLORIDA BAR

CASE NO:79-288

COMMENTS TO PROPOSED CHANGES TO RULE 4-7.8

The Lawyer Referral Service Committee of The Florida Bar hereby files this comment to the proposed changes to Rule 4-7.8 as submitted by The Florida Bar on January 31, 1992.

The Florida Bar is proposing changes to Rule 4-7.8(b) with regard to the definition of lawyer referral services. The Lawyer Referral Service Committee of The Florida Bar considered this rule change at its January 1991 meeting and approved the changes. However, a situation has come to the Committee's attention that casts the rule change in a different light.

In the fall of 1991, the Miami Beach Bar Association notified The Florida Bar of its intention to create a "referral panel" for pro bono referrals, and was informed that under the rule change contemplated, they would be operating a lawyer referral service and thus be subject to Rule 4-7.8 and, if "bar-sponsored" Rule 8 also.

The addition of part (b) (2) to Rule 4-7.8 states:

(2) any group or pooled advertising program operated by any person, group of persons, association, organization or entity wherein the legal services advertisements utilize a common telephone number and potential clients are then referred only to lawyers or law firms participating in the group or pooled advertising program.

Technically, all pro bono panels and referral systems would fall under the strict definition of this paragraph, since brochures and other publicity for the pro bono programs utilize a common phone number and refer clients to only those attorneys who have signed up with the program. This was never the contemplation of the Lawyer Referral Service Committee. To add the numerous pro bono referral programs to the lawyer referral service network would be abusing the definition of both types of programs.

The Lawyer Referral Service Committee respectfully requests this Court to add a clarifying sentence to the proposed amendment to Rule 4-7.8 (b) (2) as follows:

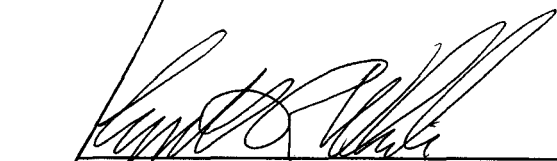
"A pro bono referral program, in which the participating attorneys do not pay a fee or charge of any kind to receive referrals or to belong to the referral panel, and are undertaking the referred matters without expectation of remuneration, is not a lawyer referral service within the definition of this rule."

The addition of this sentence would clarify the distinction between lawyer referral services and pro bono programs. This distinction is important because most pro bono referral programs are bar-sponsored, and are funded by the local bar association, by Legal Services Corporation or by The Florida Bar Foundation. Bar-sponsored referral services report quarterly to The Florida Bar on their financial status and the number of referrals, etc. This Court's order of February 20, 1992, called for the establishment of circuit-wide reporting of pro bono hours. To have this information also gathered by the Lawyer Referral Service Committee of The Florida Bar is an unnecessary duplication of time and effort.

The abuses which may be possible with referral services where money is involved are simply not present in the pro bono programs. The motivation of attorneys to join, and the nature of the program funding and operation are different and distinct. They should not be joined together by the chance wording of the proposed rule.

WHEREFORE, the Lawyer Referral Committee of The Florida Bar respectfully requests that this Court consider these comments when ruling upon the request of The Florida Bar in this matter.

Respectfully submitted,



Cynthia R. White  
Florida Bar No. 203297  
Chair, Lawyer Referral Service  
Committee, The Florida Bar  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by U.S. mail, postage prepaid, to Jack F. Harkness, Jr. at The Florida Bar, 650 Apalachee Pkwy, Tallahassee, Fl 32399-2300 this 28th day of February, 1992.

  
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Cynthia R. White